IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 251 OF 2005

Madanlal Taparia & Anr ...Petitioners

Versus

The Bank of Rajasthan Ltd. & Anr ...Respondents

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Mr. Raja Thakare i/b A.M. Chimalkar, Advocate for Petitioners

Mr.Kamaldeep Sagar i/b Paras Kuhad & Associates, Adv. for Respondent No.1.

Ms. S.V. Gajare, A.P.P. for State.

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CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 17TH OCTOBER, 2005

P. C.:-

1. Heard the learned advocate for the petitioners, learned advocate for respondent No.1 i.e.original complainant and the learned A.P.P. for the State.

2. The petitioners have prayed for quashing of proceedings relating to Criminal Case No.1493 of 2001 which is pending in the Court of learned M.M. 33rd Court, Ballard Pier, Mumbai. In the said case, process has been issued against the petitioners under Section 138 of Negotiable Instruments Act. The learned advocate for the petitioners submitted that the learned Magistrate committed an error in issuing

process and the said process deserves to be set aside. It is further submitted that if the process issued against the petitioners is set aside, the proceedings in respect of the petitioners would come to an end.

3. For the reasons recorded in the decision of this Court in the case of **V.K. Jain & Ors. Vs. Pratap Vs. Padode and Anr, reported in 2005(3) Mh.L.J. 778,** in my opinion, the petitioners have an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the petitioners prefer revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the petitioners to prefer revision before the concerned Sessions Court. The learned advocate for the petitioners states that the necessary revision would be preferred within a period of six weeks from today. In view of this statement, the trial Court shall not proceed with the trial for a period of six weeks from today. The learned advocate for the respondent i.e. original complainant fairly states that no objection would be raised in respect of delay in filing revision before the learned Sessions Judge.

5. On the necessary revision being preferred by the petitioners before the concerned Sessions Court, the concerned Sessions Court shall dispose of the same on merits after hearing necessary parties.

6. Writ Petition is disposed of.

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